IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 9571 of 2005

Between:

O. Venugopal S/o.Siva Prasad Rao
R/o.D.No.15-6-26/B,Bhimavaram West Godavari District.

..... PETITIONER

AND

1 The Deputy Transport Commissioner and Secretary
Regional Transport Authority Nellore.
2 The Regional Transport Officer
Bhimavaram W.G. District
3 The Motor Vehicles Inspector
Gazetted Nuzuvid
Krishna District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction, more particularly one in the nature of writ of mandamus declaring the seizure and continued detention of the petitioners LMV Goods vehicle bearing R.No.A.P.26/V-5679 seized under vehicle check report No.096194 dt.15-4-2005 by the 3rd respondent i.e., Motor Vehicles Inspector, Gazetted, Nuzuvid, Krishna District, as arbitrary, illegal, unjust, unconditional and without jurisdiction and consequently direct the respondents to release the petitioners goods vehicle bearing No.A.P.26/V-5679 seized under vehicle check report No.096194, dt.15-4-2005, forthwith to the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.RAJANIKANTH JWALA

Counsel for the Respondent Nos.1 to 3: GP FOR TRANSPORT

The Court at the stage of admission made the following:

-

-

-

-

-

-

-

-

ORDER:

-

The petitioner has filed this writ petition seeking a direction to the respondents to release his Vehicle i.e. LMV Van bearing Registration No.A.P.26/V-5679.

Heard the learned Counsel for the petitioner and the learned Government Pleader for Transport.

The learned Counsel for the petitioner has contended that in spite of filing an application for grant of interim custody of the vehicle, the same has not been considered by the 1st respondent and therefore, he prays to grant interim custody of the vehicle.

On the other hand, the learned Government Pleader for Transport has opposed the same on the ground that the petitioner is liable to pay tax, and plying the vehicle without any valid documents, and therefore, the interim custody of the vehicle cannot be given.

Whether the petitioner is liable to pay any tax or has violated any provisions of the Motor Vehicles Act or not, have to be decided by the competent authority after giving reasonable opportunity to the petitioner. Till then, it is not desirable to keep the vehicle idle exposing to sun and rain causing damage to the vehicle.

In the circumstances, the writ petition is allowed directing the respondents to grant interim custody of the vehicle to the petitioner on the following terms and conditions:

a. *that the petitioner shall produce the vehicle as and when required by the competent authority;*

b. *that the petitioner shall not alienate any part of the vehicle or transfer it to a third party;*

c. *that the petitioner shall participate in the enquiry that is going to be conducted by the 1st respondent after receipt of show cause notice by filing his explanation.*

d. *that the tax, if any due as on today shall be paid;*

e. *that the petitioner shall produce all documents relating to the vehicle before the 1st respondent;.*

The writ petition is disposed of in terms of the above directions. No order as to costs.

Dated: 26.04.2005

Dsr

NOTE:

Issue operative portion

by wire at party's costs.

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Deputy Transport Commissioner and

Secretary, Regional Transport Authority,

Nellore

2. The Regional Transport Officer,

Bhimavaram, West Godavari District

3. The Motor Vehicle Inspector,

Nuzvid, Krishna District

4. Two CCs to the Government Pleader for

Transport, High Court Buildings, Hyderabad

5. Two CD copies

*Form-NIC-OGS/WP{**NS**}*